REMARKS

Claims 1-26 are pending in this application. By this Amendment, claims 5, 6 and 10 are amended to correct typographical errors. No new matter is added by these amendments. Reconsideration of the application based on the above amendments and the following remarks is respectfully requested.

Entry of the amendments is proper under 37 CFR §1.116 because the amendments: (a) correct typographical errors; (b) place the application in condition for allowance for the reasons discussed herein; (c) place the application in better form for appeal, should an appeal be necessary. Entry of the amendments is thus respectfully requested.

The Office Action, in paragraph 4, rejects claims 1-5, 7, 9, 11-15, 17-19 and 21-25 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,018,739 to McCoy et al. (hereinafter "McCoy"). The Office Action, in paragraph 17, rejects claims 6, 8, 10, 16, 20 and 26 under 35 U.S.C. §103(a) as being unpatentable over McCoy. The Applicant respectfully traverses these rejections.

The Office Action does not specifically address the feature "to issue an identification token," as positively recited in the pending claims. However, in the Response to Arguments section of the Office Action the assertion is made that the arguments made in the Request for Reconsideration filed July 9, 2007 the arguments were found unpersuasive. Specifically, the Office Action asserts that "the specification gives an example versus an actual definition of an identification token, thereby necessitating a broad interpretation of the term to encompass anything from a password (i.e., virtual identification token) up to a physical token (i.e., smart card, etc.)." We believe this assertion to be incorrect for the following reasons.

First, the broad interpretation of the subject matter of the pending claims is necessitated not by the specification giving an example instead of an actual definition, but

instead, as stated in MPEP §2111, based on Federal precedent. *Phillips v. AWH Corp.*, 415 F.3d 1303, 75 USPQ2d 1321 (Fed. Cir. 2005).

Second, the MPEP §2111.01 further quotes *In re Morris*, "[t]he court held that the PTO is not required, in the course of prosecution, to interpret claims in applications in the same manner as a court would interpret claims in an infringement suit. Rather, the 'PTO applies to verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in [A]pplicant's specification." *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997).

Applicant respectfully submits that the Office Action, in making the assertion that a identification token, as positively recited in the pending claims, may consist of a password (i.e., a virtual identification token) is unreasonable. To make this assertion the Office Action must totally ignore the content of the Applicant's disclosure. Specifically, the following paragraphs illustrate the language disclosed in the specification that limits even the broadest interpretation of the pending claims to include any type of "virtual" identification token.

Para. [0010] cites, in the Summary of the Invention, that the identification token may be a "smart card", identification card, i.e., driver's license, credit card, etc., boarding pass, passport, and the like. Each illustrative example identifies a physical form of an identification token. None of the items listed would cause one skilled in the art to reasonably conclude that the Applicant, at the time of invention, considered a "virtual" identification token, or password.

Additionally, para. [0016] recites that "the token may contain identity, as well as biometric data, encoded on or in it." The reference specifically requires a physical identification token, which is not taught, nor would it have been suggested, by the applied

reference of McCoy. A password would not be considered by one skilled in the art, at the time of the invention, to be able to have data encoded on or in it, as recited in the Applicant's specification.

Para.'s [0017]-[0019] further disclose that "[u]like conventional check-in stations, the check-in workstations or check-in kiosk, in an exemplary embodiment of this invention, biometrically identifies the individual as the individual that was originally enrolled and compares the operational biometric data provided by the individual to the data that may be encoded on the identity token." (emphasis added). One skilled in the art, at the time of the invention, would understand that the recitation "[a]n enrolled individual having an identity token may pass through a security workstation and does not need any other identification document other than the issued identity token," (para. [0021]) requires a physical presentation of an identification token at the security workstation. For example, a password could simply be taken by duress from an individual, thereby thwarting any security measures provided, and not enhancing security, as the Applicant's disclosure intends. However, an identification token, as recited in the pending claims, allows for biometric data comparison of the individual requesting access, passage, etc. from his or her person and the identification token.

Upon completion of the vetting process, as discussed in Applicant's disclosure in at least para. [0049], the individual is provided an identification token. The entirety of the paragraph could not be accomplished if the token were any type of virtual identification token, as asserted by the Office Action. For example, the next step in the process, following completion of the vetting process, is to issue the identification token containing biometric and identity data encoded on the token. This allows for scanning of the token, reading the associated data, ascertaining the comparable data from the person of the individual, and

verifying the authenticity of the data from the core system. Thus, security is enhanced by the three way comparison.

In direct contrast, the applied reference of McCoy teaches a distributed biometric identification system, and architecture for rapidly identifying individuals using fingerprint and photographic data (col. 2, lines 16-22). Specifically, McCoy teaches that biometric data is collected and stored on a central server, where it can be accessed by various users. However, McCoy does not teach, nor does it suggest, that a specific user will be issued any type of identification token, that contains identity and/or biometric data allowing for increased security measures. For example, McCoy teaches no provision where an individual passing a secure check point would present an identification token containing identity and/or biometric data, have that data checked against the physical individual, and then have the data verified by checking a remote server. As such, McCoy cannot reasonably be considered to teach the features of the pending claims.

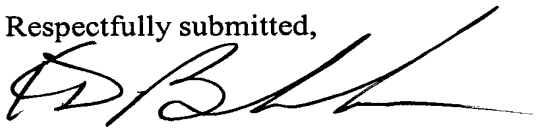
For at least the above reasons, McCoy cannot reasonably be considered to teach, or to have suggested, the combinations of all of the features recited in at least independent claims 1, 11 and 21. Further, claims 2-10, 12-20 and 22-26 would also not have been suggested by the applied prior art references for at least the respective dependence of these claims on allowable independent claims 1, 11 and 21, as well as for the separately patentable subject matter that each of these claims recites.

Accordingly, reconsideration and withdrawal of the rejections of claims 1-26 under 35 U.S.C. §102(b) and §103(a) as being unpatentable over the combination of applied prior art references are respectfully requested.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the application are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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